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C.R.P. No.3441 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.04.2023

CORAM: JUSTICE N.SESHASAYEE

C.R.P. No.3441 of 2019

A.Rajeshwari

... Petitioner

Vs.

1.Y.Venugopal

2.J.Ashwini Kumar

3.M/s.Upasana Engineering Ltd.,
Rep. by Mr.K.Ramasamy
S/o.Sri Krishnan
No.298, SIDCO Industrial Estate
Ambattur, Chennai

4.M/s.Sundaram Bleistahl Pvt. Ltd.,
Rep. by Mr.K.Ramasamy
S/o.Sri Krishnan
No.298, SIDCO Industrial Estate
Ambattur, Chennai

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decretal order of the District Munsif cum Judicial Magistrate No.1, Hosur dated 09.07.2019 made in I.A. No.412 of 2017 in O.S. No.147 of 2007.



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For Petitioner : Mr.S.Prem Auxilian Raj
For Respondents : Mr.R.Parthasarathy, Sr. Counsel

ORDER

The present civil revision petition is laid challenging an order dismissing the application filed by the plaintiff in I.A. No.412 of 2017 in O.S. No.147 of 2007 on the file of District Munsif cum Judicial Magistrate No.1, Hosur.

2. The suit is laid for declaration of title. The husband of the plaintiff has laid I.A. No.412 of 2017 to represent the plaintiff and to tender evidence. This was dismissed by the trial court on the ground that it was a tactics adopted by the plaintiff to delay the trial.

3. Heard both sides and perused the materials available in the form of typed set of papers.

4. The learned counsel for the revision petitioner submitted that the plaintiff has executed a power of attorney in favour of her husband to represent her in the suit. This apart, the husband has got right to tender evidence on behalf of his



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wife under Section 120 of the Indian Evidence Act, 1872. Therefore, the reasoning of the trial court that it is a strategy to delay the commencement of the trial of the suit is misconceived.

5. Accordingly, this civil revision petition is allowed. The fair and decretal order of the learned District Munsif cum Judicial Magistrate No.1, Hosur dated 09.07.2019 made in I.A. No.412 of 2017 in O.S. No.147 of 2007 is set aside. No costs.

10.04.2023

Asr

To
The District Munsif cum Judicial Magistrate No.1, Hosur



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N.SESHASAYEE, J.,

Asr

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